

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Division 1, Chapter 4, Subchapter 4, Article 29, Section 1709(a)  
of the Construction Safety Orders

**Maximum Allowable Load****MODIFICATIONS AND RESPONSES TO COMMENTS RESULTING FROM  
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons except for the following substantive and sufficiently-related modifications that are the result of public comments and/or Board staff evaluation.

**Section 1709(a). General Requirements.**

This section contains general requirements for the erection and construction of structures, including, but not limited to, load bearing capacity, bracing, wood floor construction, and erection guides for trusses and beams over 25 feet long.

Existing subsection (a) prohibits any building, structure or part thereof, or any temporary support or scaffolding from being overloaded in excess of its designed capacity.

Modifications are proposed. First, the proposal is modified so that the involvement of a qualified person is required only when the load will exceed the design load strength. Second, the term "design load strength" is defined. The proposed modifications are necessary so that employers will not have to obtain the opinions of qualified persons in situations where those opinions do not enhance safety, namely when the load is within the range of loads that the structure (or portion of the structure) is designed to bear. Also, the definition of "design load strength" eliminates ambiguity that otherwise would exist.

Summary and Responses to Written and Oral Comments:

I. Written Comments

Kevin D. Bland, Esq., Hines Smith Carder Dincel Bland, LLP, by e-mail dated August 19, 2010

Comment: Mr. Bland stated that upon review of the proposal, the term “any load” is problematic because it is too broad and could restrict construction operations unreasonably. Mr. Bland proposed the term “any excessive load” and stated that without this revision to the proposal neither the California Framing Contractor’s Association nor the Residential Contractor’s Association could support the proposal.

Response: In response to Mr. Bland’s concern and that of Mr. Walker stated below, the proposal has been modified to address stakeholder concerns by qualifying the phrase “any load” and defining the term “design load strength.” The Board thanks Mr. Bland for his participation in the Board’s rulemaking process.

Ken Nishiyama Atha, Regional Administrator, Occupational Safety and Health Administration, by letter dated August 12, 2010

Comment: Mr. Nishiyama Atha stated that following the review, the standard as proposed is at least as effective as the federal standards.

Response: The Board acknowledges Region IX’s determination that the proposal is at least as effective as the federal standards.

II. Oral Comment

Oral comment received at the August 19, 2010, Public Hearing in Sacramento, California.

Chris Walker, The California Sheet Metal and Air Conditioning Contractor’s National Association

Comment: Mr. Walker was concerned over the use of the words “any load” in the proposal meaning that any load cannot be placed on structures unless the employer consults with someone who has structural engineering expertise. Mr. Walker stated this would be onerous and problematic to construction industry employers.

Response: The Board concurs with Mr. Walker’s concern and the proposal is modified accordingly. See also the response to Mr. Bland’s e-mail comment dated August 19, 2010, discussed above.

MODIFICATIONS AND RESPONSES TO COMMENTS RESULTING FROM  
THE 15-DAY NOTICE OF PROPOSED MODIFICATIONS

No further modifications to the information contained in the Initial Statement of Reasons are proposed as a result of the 15-Day Notice of Proposed Modifications mailed on October 12, 2010.

Summary and Responses to Written Comments:

Ms. Dana Lahargoue, Chairman, CEA Safety Committee, by letter dated November 1, 2010

Comment: Ms. Lahargoue suggested deleting the words "...or scaffolding..." from the first sentence of Section 1709(a). She stated that scaffolding requirements are already addressed in Section 1637.

Response: The Board is aware that Section 1637 contains requirements that scaffolding not be overloaded beyond its safe working capacity; however, the Board believes that deleting the phrase "or scaffolding" in Section 1709(a) will compromise the modified standard's effectiveness in communicating to employers that scaffolds may only be subjected to loads that exceed their original load bearing capacity if a qualified person has determined that the structure or portion thereof can safely support the load based on revised stress calculations. The Board believes it is important for employers conducting operations involving scaffolding to understand this concept.

The Board thanks Ms. Lahargoue for her comment and participation in the Board's rulemaking process.

Ken Nishiyama Atha, Regional Administrator, Occupational Safety and Health Administration, by letter dated October 16, 2010

Comment: Mr. Nishiyama Atha stated that the proposed modifications as noticed on October 12, 2010 are commensurate with federal requirements.

Response: The Board acknowledges Region IX's determination that the modifications to the proposal are at least as effective as the federal standards.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This regulation does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.